

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION OCTOBER 19, 2004

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

WORK SESSION – 5:30 p.m.

A light dinner will be served.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Development of a Temporary Event Ordinance	Jason Wachs
2.	5:45 p.m.	Sewer Extension Strategy	Alice Rouyer
3.	6:25 p.m.	Adjourn	

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.
- Executive Session: The Milwaukie City Council may go into Executive Session pursuant to ORS 192.660. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.



To: Mayor and City Council

Through: Mike Swanson, City Manager
JoAnn Herrigel, Community Services Manager

From: Jason Wachs, Program Coordinator

Subject: Development of a Temporary Event Ordinance

Date: October 5, 2004

Action Requested

Provide direction to staff in the development of a Temporary Event Ordinance that provides the city with authority to regulate Special Events, Block Parties, and Sales Events.

Background

The City of Milwaukie currently has a written policy, application, and review process for Special Events, but it is without accompanying code language and does not address sales events.

The current Special Events policy requires a permit for events that:

- are staged on or impact public streets, sidewalks, or other public property;
- require city services such as police, traffic control, or public works assistance;
- interfere with normal vehicular or pedestrian traffic.

Staff recommends that events be separated into 3 categories in order to more fully encompass the breadth of events that take place and address the particular needs of each. They include:

- **Special Events** - Defined as temporary events, or gatherings, including, but not limited to, a parade, festival, exposition, show, party or other similar activity that does not recur on a regularly scheduled basis within a year, is conducted wholly on public property or partly on public property, and is not a permitted use in the zone where it is occurring.

- **Block Parties** - Defined as a party or celebration that involves the closure of a limited portion of a single local public street, that has attendance of not more than 150 people, and does not include the sale or distribution of alcohol.
- **Sales Events** - Defined as those activities that occur on a seasonal or sporadic basis and involve the processing and/or sale of commodities and services such as produce, firewood, and fireworks.

Staff recommends that the following changes to the current policy be included in the ordinance. The complete draft ordinance is attached.

- a. Staff recommends that the ordinance include public and private property. This provides the city with the opportunity to review specific events that may not be considered formal land use decisions and can be reviewed against established criteria.
- b. Staff recommends that specific exemptions are made to the ordinance for Temporary Events that the city does not wish to regulate. The exemptions include:
 - events that occur in parks that are maintained by the North Clackamas Parks and Recreation District with the exception of events that are sponsored by the City of Milwaukie. The North Clackamas Parks & Recreation District has a permitting process in place for city parks they maintain;
 - events sponsored or conducted by any school, religious, civic, fraternal organization, or league provided such events are held on premises specifically designed or constructed to house the organization and its activities;
 - funeral processions, which are already included in the Milwaukie Municipal Code;
 - temporary garage sales or yard sales;
 - construction, maintenance, or repair of any dwellings or other structures;
 - the moving of a house or other structure from one location to another;
 - any event or activity that is otherwise permitted on the property under applicable zoning regulations.

- c. Staff recommends that council consider a resolution establishing the following three fees, but that these fees be waived if an event is sponsored by an official Neighborhood District Association.
 1. A processing fee of \$25 for Temporary Event Permits to hold Special Events and Sales Events and \$15 for a permit to hold Block Parties. These fees help to offset some of the staff time to review the applications.
 2. Reimbursable fee for costs, such as, but not limited to, fire and police protection, with one-half paid to the city before the event and the rest within thirty (30) days after. The initial payment would be based on an estimate of the costs, which would be determined by each department involved. The City Manager would have final discretion over the assessment of these costs.
 3. A maximum processing fee of \$1,000 for the filming of motion pictures, commercials, or videotaped productions, which would provide the leeway that is necessary to review each proposal.

Concurrence

Planning, Engineering, Streets, Building, Police, Community Services (Includes Code Compliance), Fleet and Facilities, and Clackamas County Fire District #1 concur with the direction of this ordinance.

Fiscal Impact

Fees assessed are intended to cover review costs, not generate revenue for the city due to the limited number of events per year.

Work Load Impacts

The new event categories established by this ordinance may result in a small increase in the number of events that require permits. This may increase the workload for the departments who are responsible for reviewing the applications, but not substantially.

Alternatives

1. Provide direction to staff in the development of code language for the regulation of Temporary Events.
2. Take no action.

Attachments

A. Draft Temporary Event Ordinance (Title 11 Miscellaneous Permits)

Attachment A

Title 11 Miscellaneous Permits

Chapter 11.04 Purpose

The purpose of these regulations includes the following:

- a. To allow the orderly and safe conduct of Temporary Events including Special Events, Block Parties, and Sales Events held on public and private property;
- b. To minimize the potential adverse impacts on affected neighbors and public resources of Temporary Events.
- c. Allow for Temporary Events that are otherwise prohibited by the Milwaukie Zoning Ordinance.

Chapter 11.08 Authority, Administration, and Enforcement

- a. The City Manager is authorized to administer provisions of this section and to review and decide Temporary Event Permits based on following the procedures and regulations provided within this ordinance. The City Manager may approve, approve with conditions, or deny applications for Temporary Event Permits in accordance with applicable approval criteria.
- b. The City Manager may adopt administrative procedures and forms that are deemed necessary to administer these regulations.
- c. City action on Temporary Event Applications do not constitute land use decisions or limited land use decisions as defined by the Oregon Revised Statutes. Temporary Events that receive city permits are outright permitted uses and therefore not subject to land use review.
- d. The City Manager may authorize variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions the literal enforcement of the Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done.
- e. The provisions of this article are cumulative of all city ordinances or other applicable law. Building permits, electrical permits, food establishment permits, alcoholic beverage licenses, permits to use parks, permits needed for impacts to county streets or roads, permits needed for impacts to state owned streets or roads and all other permits required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Temporary Events must be applied for separately in accordance with the application ordinance or law. No alcoholic beverages shall be permitted for sale or consumption at a Temporary Event without first obtaining a liquor license from the Oregon Liquor Control Commission.

Chapter 11.12 Exemptions

The provisions of this article do not apply to:

- a. events that occur in parks that are maintained by the North Clackamas Parks and Recreation District with the exception of events that are sponsored by the City of Milwaukie;
- b. events sponsored or conducted by any school, religious, civic, or fraternal organization provided such events are held on premises specifically designed or constructed to house the organization and its activities;
- c. funeral processions. Regulations and restrictions for funeral processions are contained in Section 10.28.060;
- d. temporary garage sales or yard sales as described in Section 5.08.110;

- e. league play or tournaments by athletic associations in parks or recreational centers intended for such activities;
- f. construction, maintenance, or repair of any dwellings or other structures;
- g. the moving of a house or other structure from one location to another.
- h. any event or activity that is otherwise permitted on the property under applicable zoning regulations.

Exemptions to the provisions of this article as listed above do not exempt any event from other permits that may be needed according to Milwaukie's Ordinance or other applicable law.

Chapter 11.16 Definitions

Section 11.16.010 Generally. Terms used in this title are defined as provided in this chapter, unless the context requires otherwise.

Section 11.16.020 Adverse Impacts. Impacts to property and its environs that could result from a Temporary Event including, but not limited to, access and circulation, setbacks, parking, noise, hours of operation, fumes, odors, dust, and traffic. Hazardous activities such as the use of pyrotechnic devices, black powder or smokeless powder, and the use of guns are included.

Section 11.16.030 Applicant. "Applicant" means a person who has filed a written application for a Temporary Event Permit.

Section 11.16.040 Block Party. "Block party" means a party or celebration that involves the closure of a limited portion of a single local public street, that has attendance of not more than 150 people, and does not include the sale or distribution of alcohol.

Section 11.16.050 City Manager. "City Manager" means the City Manager of the City of Milwaukie or his/her designee.

Section 11.16.060 Permittee. "Permittee" means the person or organization to whom a Temporary Event Permit is granted pursuant to this ordinance.

Section 11.16.070 Person. "Person" means an individual, firm, partnership, corporation, association, or other legal entity.

Section 11.16.080 Reimbursable Costs. "Reimbursable Costs" mean all costs and expenses incurred by the city for activities associated with staging of the Temporary Event, including, without limitation, the following:

- a. Utilities services provided to the Temporary Event including all of the costs of installation, maintenance, connection, and removal
- b. Food services inspection
- c. Repair, maintenance and removal of facilities in the event of a failure of promoter
- d. Repair of streets, alleys, sidewalks, parks, and other public property
- e. Police protection
- f. Fire protection
- g. Emergency medical service
- h. Garbage disposal and cleanup
- i. Traffic control
- j. Other direct costs associated with the Temporary Event

Section 11.16.090 Special Event. "Special Event" means a temporary event, or gathering, including, but not limited to, a parade, festival, exposition, show, party or other similar activity that does not recur on a regularly scheduled basis within a year, is conducted wholly on

public property or partly on public property, and is not a permitted use in the zone where it is occurring.

Section 11.16.100 Temporary. “Temporary” means lasting for a limited time, generally not more than eight (8) hours in any one-day, not exceeding thirty (30) consecutive days, and not occurring on a regularly scheduled basis within a year.

Section 11.16.110 Temporary Event. “Temporary Event” is any Special Event, Block Party, or Sales Event.

Section 11.16.120 Temporary Event Permit. “Temporary Event Permit” means written approval from the City Manager to hold a Temporary Event.

Section 11.16.130 Sales Event. “Sales Event” is a seasonal or sporadic event involving the processing and/or sale of commodities and services. These activities could include, but are not limited to, the seasonal sale of goods such as produce, firewood, fireworks, and Christmas trees.

Chapter 11.20 Temporary Event Permit Application; Issuance

Section 11.20.010 Application Submission Requirements - A person desiring to hold a Temporary Event shall apply for a Temporary Event Permit by filing with the City Manager a written application upon a form provided for that purpose. The deadline for the submittal of a Temporary Event Permit Application to hold a Special Event or a Sales Event is thirty (30) days prior to the start of the Special Event or Sales Event. The deadline for submittal of a Temporary Event Permit Application to hold a Block Party is no less than seven (7) days prior to the start of the Block Party. Applicants who are filming a motion picture, commercial, or videotaped production within the city limits must file a Temporary Event Permit Application at least seven (7) days prior to filming.

Only Temporary Event Permit Applications that are submitted at least two (2) months prior to the start of the Temporary Event will be eligible for appeal before City Council as described in Chapter 11.32.

Section 11.20.020 Fees

- a. All Temporary Events are required to pay a processing fee to be established by resolution with the exception of events sponsored by the City of Milwaukie, events that are sponsored by one or more of Milwaukie’s Neighborhood District Associations, and/or events that may be excluded under Section 5.08.110. A Temporary Event Application to film a motion picture, commercial, or videotaped production includes a unique processing fee as mentioned in Section 11.20.020 e.
- b. A deposit of one-half of the estimated reimbursable costs as described in Section 11.16.080 may be required to be paid to the city as a result of a Temporary Event and must be received by the City Manager not less than seven (7) working days before the date of the Temporary Event as shown on the appropriate permit. Prior to the issuance of the permit the applicant may be asked to agree in writing to pay such deposit and the balance of the reimbursable costs within thirty (30) days after the Temporary Event. The City Manager has final discretion over the assessment of all reimbursable costs.
- c. Temporary Events that occur for more than 72 consecutive hours are required to obtain a business license as described in Title 5, Chapter 5.08 unless excluded under Section 5.08.110.
- d. An applicant for a Temporary Event must have general liability including Products & Completed Operations Liability, Auto Liability if applicable, Liquor liability if applicable and Professional Liability if applicable, which is described in more detail in Chapter 11.24. The limits of insurance shall be no less than \$1,000,000 per occurrence/aggregate and are subject to review by the City Manager.

- e. A Temporary Event Permit to film a motion picture, commercial, or videotaped production requires processing fees in addition to the reimbursable costs mentioned in Section 11.20.020 (b), but shall not apply to recreational films or to the filming of news events. These additional fees are described below.
 - 1. A processing fee in an amount to be established by resolution is required for all Temporary Event Permits for filming motion pictures, commercials, or videotaped productions.

Section 11.20.030 Application Process & Approval Criteria

- a. Upon receipt of the completed Temporary Event Permit Application the City Manager shall forward a copy of the application to various City departments and other organizations who shall review the application and return it, with any comments, to the City Manager within five (5) working days of receipt. The City Manager may solicit comments from affected Neighborhood District Associations and immediate neighbors of the proposed event at this time and require the submission of additional information by the applicant.
- b. The City Manager shall issue, issue with conditions, or deny the Temporary Event Permit based on the standards of this chapter. A Temporary Event Permit to hold a Special Event will be issued for a period not to exceed fourteen (14) consecutive days. A Temporary Event Permit to hold a Block Party will not be granted for a period that exceeds fifteen (15) hours and all Block Parties must be held between the hours of 7 a.m. and 10 p.m.

Chapter 11.24 Indemnification and Insurance Requirements

- a. An applicant for a Temporary Event Permit must execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the Temporary Event.
- b. An applicant for a Temporary Event Permit must have general liability and property damage insurance that protects the sponsor, the City, and the City's officers, agents, and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from the activities covered in the permits. Types of insurance that must be carried include Commercial General Liability, including Products & Completed Operations Liability, Auto Liability if applicable, Liquor Liability if applicable and Professional Liability if applicable. A certificate of insurance evidencing these requirements including an endorsement naming the City, and the City's officers, agents and employees as an additional insured must be presented to the City 5 days prior to the event. Failure to provide such evidence will result in the delay or denial of an application. The insurance shall provide coverage for personal injury to each person, coverage for each occurrence involving property damages; or a single limit policy covering all claims per occurrence. The limits of the insurance shall be no less than \$1,000,000 per occurrence/aggregate and are subject to review by the City Manager.

Chapter 11.28 Denial or Revocation

Section 11.28.010 Denial - The City Manager may deny a Temporary Event Permit if,

- a. a permit has been granted for another Temporary Event at the same place and time;
- b. it will occupy any part of a federal highway;
- c. it will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
- d. the applicant fails to adequately provide for the protection of participants, maintenance of public order in and around the Temporary Event location, crowd security, taking into

- consideration the size and character of the Temporary Event, or emergency vehicle access;
- e. the applicant fails to comply with, or the proposed Temporary Event will violate a city ordinance or other applicable law;
 - f. the applicant makes a false statement of material fact on an application or other permits are required;
 - g. the applicant fails to provide proof that he or she possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the Temporary Event;
 - h. the applicant has had a Temporary Event Permit revoked within the preceding 18 months;
 - i. the applicant has committed, within the preceding 18 months, two or more violations of a condition or provision of a Temporary Event Permit or this article;
 - j. the applicant fails to pay any outstanding reimbursable costs owed to the city for a past Temporary Event; or
 - k. the applicant fails to submit the required deposit and/or fails to agree in writing to reimburse the city for the estimated costs for the proposed Temporary Event.

Section 11.28.020 Revocation - The City Manager may revoke a Temporary Event Permit if.

- a. the applicant fails to comply with or the Temporary Event is in violation of a condition or provision of the Temporary Event Permit, an ordinance of the city, or any other applicable law; or
- b. the permit holder made a false statement of material fact on an application; or
- c. an unforeseen circumstance occurs prior to or during the event that greatly diminishes the safety and security of the proposed event. This could include, but is not limited to, inclement weather such as a snow storm, flood, or wind storm, fire, or another catastrophic event.

Chapter 11.32 Appeal from Denial, Revocation, or Approval of Temporary Event Permit

The decision of the City Manager may be reviewed by the City Council upon an appeal by any person who disagrees with the decision of the City Manager. Such appeal shall be filed with the City Recorder within 5 working days from the date of the decision of the City Manager. The City Recorder shall schedule a hearing of such appeal to the City Council no later than the second regular session following the filing of the written appeal and shall notify the applicant of the date and time that he or she may appear either in person or by a representative. The City Council may grant, grant with conditions, or deny a Temporary Event Permit during such an appeal.

Ample time is needed for the City Recorder to schedule an appeal to the City Council, therefore, the option to appeal a decision is forfeited should a Temporary Event Permit application be submitted less than two (2) months prior to the date of the Temporary Event.



To: City Council

Through: Mike Swanson, City Manager

From: Alice Rouyer, Director of Community Development & Public Works

Subject: Strategy for extending City sewer service to unsewered areas in the Urban Growth Management Area.

Date: September 24, 2004 for the October 5, 2004 work session

Action Requested

Discuss strategies for extending City sewer service to areas in the Urban Growth Management Area. Strategies include discussion of recent sewer basin master planning in the unsewered area east of the City and phased annexations that would help accomplish future public sewer extensions.

Background

Following the recent Hill Street annexation, staff met with counterparts at Water Environment Services (WES). The City needed to clarify roles with the County when reviewing building permits for new development in annexation areas. During that conversation, City staff sought a status report from the County regarding plans for sewer extensions in the area south of Johnson Creek Blvd., north of King Road and east of the City limits to Bell Avenue. The City has long desired to be the sewer provider in this area. This was memorialized in a County/City Urban Growth Management Agreement (UGMA) signed in July 1990. This area is identified in that agreement as Dual Interest Area "A" and is generally understood to be the City's first priority area for future annexation. Council approved three small annexations in this area in the past four years. The annexations were all requested by private property owners, and all have been completed.

Staff from WES indicated that they have consistently not permitted new sewer extensions into the area in order to reserve it for future City sewer service and annexation in accordance with the UGMA. They have no intention of reversing that policy. County staff did mention that they frequently get calls from residents with failing septic tanks or cesspools asking when public sewer might be available. This led to a conversation about

the City's plans for providing sewer service to this area in the future. Options are provided for sewer extension into Dual Interest Area "A" in the draft Sewer Master Plan update. The Council will be considering the Master Plan this fall. Staff will be prepared to discuss strategies for sewer service extensions into this area such as basin master planning and phased annexations in more detail at the October 5, 2004 work session.